IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

WP(C).No. 30290 of 2005(E)

AGAINST THE ORDER DATED 06/08/2005 IN IA 1242 2005 IN OS.726/1999 of MUNSIFF COURT, KODUNGALLUR

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PETITIONER:

KAVALAN, S/O. KOTTAMTHURUTHY IYER,
PULLUT DESOM AND VILLAGE,
KODUNGALLUR TALUK.

BY ADV. SRI.K.G.BALASUBRAMANIAN
SMT.AMBILY (PREMKUMAR)

RESPONDENTS:

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1. AYYPPAN, S/O. KOTTAMTHURUTHY IYER,
PULLUT DESOM AND VILLAGE,
KODUNGALLUR TALUK.

2. CHATHAN ALIAS KAVALAN, S/O. DO. DO.

3. CHAKKI, D/O. DO. DO.

4. AMMINI, D/O. DO. DO. &
W/O. PULLEPARAMBIL AYYAPPAN,
KUZHIKKATTUSSERY VILLAGE,
MULUNDAPURAM TALUK.

5. KALLI, D/O. DO. DO. AND
W/O. PEZHEKKADAN THEYYANKUNJI
KUTTICHIRA VILLAGE, MUKUNDAPURAM TALUK.

BY ADV. SRI.BABU KARUKAPADATH
SRI.K.A.NOUSHAD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF ORDER DT.4.6.2004 IN I.A.422/04 IN O.S.726/99 IN THE COURT BELOW

EXT.P2: --DO- OF I.A.1242/05 IN THE COURT BELOW

EXT.P3: -DO- OF COUNTER FILED BY RESPONDENTS TO EXT.P2

EXT.P4: -DO- OF ORDER DT.6.8.05 IN I.A.1242/05 IN O.S.726/99

jj /TRUE COPY/

P.A.TO JUDGE

M.N.KRISHNAN, J.

WP(C)No. 30290 OF 2005 E

Dated this the 28th June, 2007.

JUDGMENT

This writ petition is filed seeking to set aside the order in I.A.1242/05 in O.S.726/99. The suit is one for partition. It is the case of the plaintiff that the second plaintiff Chathan @ Kavalan and the first defendant is also Kavalan. The first defendant also admits that his father has two sons by name Kavalan and the first defendant is known by the name Aniyan Kavalan and the other son is known by Valiya Kavalan. Now the question is whether the Chathan @ Kavalan is this Valiya Kavalan or not. Now, in order to substantiate that contention the first defendant wants to summon two documents. Since he has raised a specific contention disputing that the second plaintiff is not the Kavalan in his mind, it is only just and equitable that he may be permitted to summon the documents sought for and let in evidence. This will not in any way affect the right of other persons because they are also entitled to produce evidence in support of their contentions. Therefore, the order under challenge is set aside and Ext.P2 is allowed. I make it clear that in the light of production of documents under Ext.P2, if it becomes necessary for the plaintiffs to produce documents in support of their

contentions, they are at liberty to produce the documents and the court, after hearing both sides, dispose of the matter in accordance with law. The trial court shall try to dispose of the matter as expeditiously as possible, within a time frame of four months from today.

M.N.KRISHNAN
Judge

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